

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

THOMAS COOK; MEGAN DRESCH;
LAURA GALABURDA; JACK GLOVER;
DAVID HALL; MONICA HILL; JENNY
LYNN KOPFSTEIN; JENNIFER MCGINN;
JUSTIN PEACOCK; JAMES E.
PIETRANGELO II; DEREK SPARKS;
STACY VASQUEZ,

Plaintiffs,

v.

DONALD H. RUMSFELD, Secretary of
Defense; TOM RIDGE, Secretary of Homeland
Security; UNITED STATES OF AMERICA,

Defendants.

Civil Action No. 04-12546 GAO

DEFENDANTS' MOTION TO DISMISS

Pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure, defendants Donald H. Rumsfeld, Secretary of Defense; Tom Ridge, Secretary of Homeland Security; and the United States of America, hereby moves to dismiss this action for failure to state a claim upon which relief can be granted. The reasons for the foregoing motion are set forth in the accompanying Memorandum of Law.¹

¹ Defendants' Memorandum of Law numbers 35 pages, consistent with the request set forth in the Consent Motion for Leave to File Memoranda of Law in Excess of 20 Pages, filed on February 3, 2004.

Respectfully submitted,

MICHAEL J. SULLIVAN
United States Attorney

By: /s/ Mark T. Quinlivan
MARK T. QUINLIVAN
Assistant United States Attorney
United States Attorney's Office
John Joseph Moakley U.S. Courthouse
1 Courthouse Way, Suite 9200
Boston, MA 02210
617-748-3606

Dated: February 7, 2005

CERTIFICATE PURSUANT TO LOCAL RULE 7.1(a)(2)

Pursuant to Local Rule 7.1(a)(2), I certify that, on January 26 and February 2, 2005, I conferred with co-counsels for the plaintiffs, Jonathan A. Shapiro, Esq., and Stuart F. Delery, Esq., regarding this motion. Mr. Shapiro and Mr. Delery indicated that plaintiffs would oppose this motion.

/s/ Mark T. Quinlivan
MARK T. QUINLIVAN
Assistant United States Attorney